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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:

LUCKY DRAGON HOTEL & CASINO,
LLC,

Debtor.

Case No. 18-10792-mkn
Chapter 7

**MOTION TO SELL ASSETS AT PUBLIC
AUCTION, APPLICATION TO EMPLOY
NELLIS AUCTION AS AUCTIONEER,
AND PAY COMMISSION**

Chapter 7 trustee BRIAN D. SHAPIRO (“Trustee”) hereby moves for the Court for an order authorizing the sale of assets at public auction, employ an auctioneer to perform that sale, and pay the auctioneer’s commission. This motion is supported by the Declaration of Brian D. Shapiro (“Trustee’s Declaration”) and the Declaration of Laura Chupinsky (“Chupinsky Declaration”), both filed contemporaneously herewith.

A. Assets to be Sold

1. The administration of this case will require the liquidation of the following used network equipment items, which were obtained from the local company Switch (“Assets”):

- Avaya VSP 7254XSQ
- APC Rack AP8841 PDU (Power Distribution Unit)

The Assets were located at a Switch facility located near Dean Martin Drive. Staff for Switch contacted the Trustee to make him aware that such equipment existed. [Trustee’s Decl. at ¶ 3.]

2. The Trustee is not aware of any liens against the Assets. [Id. at ¶ 4.]

1 **B. Auction / Auctioneer / Sale / Commission Rate**

2 3. The Trustee has determined in his business judgment that employment of an
3 auctioneer to perform such liquidation is appropriate to achieve the highest net recovery to the
4 bankruptcy estate. [Id. at ¶ 5.]

5 4. To sell the Asset, the Trustee seeks to employ the auctioneer CRET LLC-Series
6 2012-2 d/b/a Nellis Auction (“Nellis Auction”) as a professional pursuant to 11 U.S.C. §
7 327(a), Fed. R. Bankr. P. 2014, and LR 2014.

8 5. The Trustee selected Nellis Auction because it is highly experienced in selling
9 assets in bankruptcy cases, has the marketing network and auctioning capability to ensure a
10 sale at market value, and has reasonable commissions. [Trustee’s Decl. at ¶ 6.]

11 6. Nellis Auction is licensed and bonded. A copy of the bond (International Sureties,
12 Ltd. District of Nevada Auctioneer Bond #016032153) is on file with the Office of the United
13 States Trustee, Region 17. [Id. at ¶ 7.]

14 7. Per the Chupinsky Declaration:

- 15 • Nellis Auction does not hold an interest adverse to this bankruptcy estate;
- 16 • Nellis Auction is disinterested within the meaning of Section 101(14)
- 17 of the Bankruptcy Code; and
- 18 • Nellis Auction does not have any connection with the Debtor, the
- 19 creditors, any other party in interest, their respective attorneys and
- 20 accountants, the United States Trustee, or any person employed in the
- 21 office of the United States Trustee.

22 **C. Sale/Commission**

23 8. The sale is sought to be approved pursuant to Section 363(b) of the Bankruptcy
24 Code. The Assets will be sold in an “as-is, where is” condition.

25 9. The terms of sale will be cash or equivalent on the day of sale.

26 10. If any perfected, non-avoidable, pre-petition lien subsequently becomes known,
27 the Trustee requests that such lien be deemed attached to the proceeds of the sale.

28 11. The Trustee will file a Report of Sale with this Court after the auction. No further
confirmation of sale will be sought.

12. For this auction sale, Nellis Auction will charge the Bankruptcy Estate a commission equal to 10% of the total auction hammer price.¹

13. Nellis Auction typically deducts its commission prior to sending the net proceeds to the seller. Accordingly, by this motion the Trustee also requests that Nellis Auction be awarded the 10% commission as compensation pursuant to 11 U.S.C. § 330(a), and authorizing it to transmit the net proceeds to the Trustee after deduction of that commission.

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WHEREFORE, the Trustee requests this court to enter an order:

- Authorizing the Trustee to employ Nellis Auction pursuant to 11 U.S.C. § 327(a) to act as auctioneer to sell the Assets.
- Finding the proposed commission (10% of the auction hammer price) to be reasonable in accordance with 11 U.S.C. § 328.
- Authorizing the sale of the Assets at public auction, pursuant to 11 U.S.C. § 363(b).
- Awarding Nellis Auction the 10% commission as compensation pursuant to 11 U.S.C. § 330(a), as an allowed administrative expense of the estate.
- Authorizing Nellis Auction to transmit the net sale proceeds to the Trustee, after deduction of its commission.

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DATED: December 11, 2020

ATKINSON LAW ASSOCIATES LTD.

By: /s/ Clarisse Crisostomo

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¹ Nellis Auction will also charge its customers a 10% buyer's premium for bidders who purchase at the live auction, or a 15% buyer's premium for bidders who purchase through its online website. This buyer's premium is the obligation of the buyer, and is not an expense of the Bankruptcy Estate.